

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Tavares Felton,)	Civil Action No.: 2:22-2684-BHH
)	
Petitioner,)	
)	
v.)	<u>ORDER</u>
)	
Warden William L. Woods,)	
)	
Respondent.)	
)	

On August 15, 2022, Petitioner Tavares Felton (“Petitioner”) filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (ECF No. 1.) On November 2, 2022, Respondent filed a motion for summary judgment. (ECF No. 20.) In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(c) (D.S.C.), the matter was referred to a United States Magistrate Judge for review.

On December 19, 2022, Petitioner filed a motion for discovery, and the Magistrate Judge stayed Petitioner’s response deadline to the motion for summary judgment pending resolution of the discovery motion. (ECF Nos. 26 and 28.) The Magistrate Judge ultimately denied Petitioner’s discovery motion on January 18, 2023, and lifted the stay on Petitioner’s response deadline to the motion for summary judgment. (ECF No. 34.) The Magistrate Judge instructed Petitioner to file his response by February 13, 2023; however, in the meantime, Petitioner filed objections to the Magistrate’s discovery order. (See ECF Nos. 36, 37, and 39.) This Court ultimately overruled Petitioner’s objections in a text order dated March 29, 2023, and affirmed the Magistrate Judge’s order denying discovery. (ECF No. 42.) Petitioner was then granted until April 17, 2023, to file his response to Respondent’s motion for summary judgment. Petitioner never filed a response, and the Magistrate Judge

issued a Report and Recommendation (“Report”) on June 12, 2023, based on the current record. (ECF No. 47.) In her Report, the Magistrate Judge recommends that the Court grant Respondent’s motion for summary judgment because Petitioner failed to exhaust his administrative remedies prior to filing this action. Additionally, the Magistrate Judge noted that Petitioner has failed to offer any explanation or evidence to suggest cause to excuse his failure to exhaust. Attached to the Magistrate Judge’s Report was a notice advising the parties of the right to file written objections to the Report within fourteen days of receiving a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections have been filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge that

Respondent is entitled to summary judgment based on Petitioner's failure to exhaust his administrative remedies prior to filing this action. Accordingly, the Court hereby **adopts and incorporates** the Magistrate Judge's Report (ECF No. 47), and the Court grants Respondent's motion for summary judgment (ECF No. 20).

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

June 30, 2023
Charleston, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.